

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

Novus Franchising, Inc.,

Civil No. 12-cv-1771 (MJD/TNL)

Plaintiff,

v.

ORDER

AZ Glassworks, LLC,
Capital One Auto Glass, LLC,
Edward Longoria and
Jeannie Hersh,

Defendants.

James M. Susag and Susan E. Tegt, Larkin Hoffman Daly & Lindgren Ltd., 7900 Xerxes Avenue South, Suite 1500, Minneapolis, MN 55431-1194.

Based upon the Report and Recommendation by United States Magistrate Judge Tony N. Leung dated September 27, 2012 (Docket No.26), along with all the files and records, and no objections to said Recommendation having been filed, **IT IS HEREBY ORDERED** that:

1. Novus's Motion for a Preliminary Injunction Against All Defendants (Docket No. 3) is

GRANTED IN PART, as follows:

a. Effective immediately, Capital One, and all persons acting in active concert with it who receive notice of this Order, be permanently restrained and enjoined from any use of the registered NOVUS® Marks and all derivations thereof;

b. Effective immediately, Capital One, and all persons acting in active concert with it who receive notice of this Order shall remove and return to Novus or destroy all signage, promotional materials, and other materials

- bearing the NOVUS® Marks, including internet websites, within five (5) days of the effective date of any injunction order; and
- c. Capital One shall provide proof to Novus's counsel of all steps taken pursuant to any injunction order within seven (7) days of the effective date of the injunction order.
2. Novus's Motion for a Preliminary Injunction Against All Defendants (Docket No. 3) is **DENIED IN PART WITHOUT PREJUDICE** with respect to AZ.
3. Novus's request for attorneys' fees and costs is denied without prejudice.
4. Any injunction order shall become effective upon personal service thereof upon Capital One and the posting of a \$5,000 bond by Novus.

Date: October 18, 2012

s/Michael J. Davis
Michael J. Davis
Chief Judge
United States District Court